



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,467	11/20/2003	Peter B. Rim	H0006488-4820	1047

7590 09/20/2005

Richard S. Roberts
Roberts & Mercanti, L.L.P.
P.O. Box 484
Princeton, NJ 08542-0484

EXAMINER

PIZIALI, ANDREW T

ART UNIT	PAPER NUMBER
----------	--------------

1771

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/718,467

Applicant(s)

RIM ET AL.

Examiner

Andrew T. Piziali

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 7 and 27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-26 and 28-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/20/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Species 1 in the reply filed on 8/31/2005 is acknowledged. The traversal is on the grounds that the examiner failed to show a distinction between the species. This is not found persuasive because the term "distinct" means that two or more subjects as disclosed are related, but are capable of separate manufacture, use, or sale as claimed, and are patentable over each other (see MPEP 802.01). The species identified in restriction requirement mailed on 8/22/2005 are related (both are composite textile articles) but are capable of separate manufacture, use, or sale (as separate garments), and are patentable over each other (because each species claims distinct characteristics, such as permeable/impermeable front/back outer fabrics). Claims 7 and 27 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species. It is noted that the applicant indicated that claim 26 appeared to read on the non-elected species, but claim 26 actually reads on the claimed species and thus has been examined.

The requirement is still deemed proper and is therefore made FINAL.

Drawings

2. Figures 1-3 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See Figures 1-3 of USPN 5,902,384 and MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled

Art Unit: 1771

“Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The use of trademarks, such as SPECTRA SHIELD, GOLD SHIELD, Z SHIELD, KEVLAR, SPECTRA, and VELCRO have been noted in this application (see entire specification including pages 10-13). They should be capitalized wherever they appear and be accompanied by the generic terminology. Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner that might adversely affect their validity as trademarks.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-2, 4, 6, 8-22, 24, 26 and 28-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,461,724 to Wiedner et al. (hereinafter referred to as Wiedner) in view of USPN 5,902,384 to Rohrbach et al. (hereinafter referred to as Rohrbach).

Regarding claims 1-2, 4, 6, 8-22, 24, 26 and 28-34, Wiedner discloses a composite textile

Art Unit: 1771

article which comprises: a) a sheet of a central textile fabric (2) having a front side and a rear side wherein said sheet of central textile fabric is water vapor permeable; b) a pair of sheets of outer textile fabrics, one of the sheets (1) of outer textile fabrics positioned on the front side of the sheet of central textile fabric and the other sheet (3) of outer textile fabric positioned on the rear side of the sheet of central textile fabric wherein each sheet of outer textile fabric is water vapor permeable; c) the sheet of central textile fabric and the pair of sheets of outer textile fabrics being attached together via a sealed hem around a perimeter of the sheet of central textile fabric and the pair of sheets of outer textile fabrics, which hem is sealed (see entire document including column 1, lines 56-65, column 2, lines 38-47, column 5, lines 51-61, column 8, line 67 through column 9, line 23, and the Figures).

Wiedner does not specifically mention the use of central textile fibers comprising semi-opened micro-cavities that have been impregnated with at least one biological and/or chemical decontamination reagent, but Wiedner does disclose that the object of the invention is to provide an article of clothing which may be used in the chemical field and which effectively prevents the passage of substances, such as micro-organisms, through the article of clothing (column 1, lines 43-55). Wiedner also discloses that the central layer may comprise material that absorbs the substance (column 3, lines 28-37). Röhrbach discloses that it is known in the chemical microorganism absorbent fiber art to use fibers having semi-opened micro-cavities that have been impregnated with at least one chemical decontamination reagent in an amount sufficient to chemically modify, neutralize and/or decontaminate chemical contaminants (see entire document including (column 1, line 53 through column 2, line 34, column 3, lines 36-64, and Figures 1-3). It would have been obvious to one having ordinary skill in the art at the time the invention was

Art Unit: 1771

made to use the fibers taught by Rohrbach within the central textile fabric, because the fibers would chemically modify, neutralize and/or decontaminate chemical contaminants and because it is within the general skill of a worker in the art to select a known material on the basis of its suitability and desired characteristics.

Regarding claims 2 and 22, Rohrbach discloses that the fibers may comprise polymeric multilobal fibers that have a central core having a plurality of T-shaped lobes projecting therefrom, each of said T-shaped lobes having a leg and a cap, said lobes defining a longitudinally extending internal cavity between two adjacent legs that extends the entire length of the fiber (column 3, lines 36-64 and Figure 3).

Regarding claims 4 and 24, Wiedner discloses that the same type of chemical materials may be used in all of the layers so that the shrinkage of the various layers and their behavior when sterilized are similar (column 7, lines 47-51). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make at least one of the sheets of outer textile fabrics from the fibers disclosed by Rohrbach, so that the shrinkage of the various layers and their behavior when sterilized are similar and because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability and desired characteristics.

Regarding claims 6, 8, 10, 26, 28 and 30, Wiedner discloses that each sheet of outer textile fabric may be liquid impermeable (column 1, lines 56-65).

Regarding claims 9-10 and 29-30, Wiedner discloses that the central textile fabric may be liquid impermeable (column 3, lines 38-54).

Art Unit: 1771

Regarding claims 12-14, Rohrbach discloses that the fibers may be impregnated with chemical decontamination reagent powder particles (column 3, lines 36-64).

Regarding claim 13, Rohrbach discloses that the powder particles may be infused between said fibers and in said cavities, said powder particles being of such a size and shape that they are retained within each cavity (column 3, lines 50-64 and Figure 2).

Regarding claim 14, Weidner discloses that the powder particles may range in size from about 1 micron to about 10 microns (column 3, lines 50-64 and Figures 2-3).

Regarding claims 15 and 16, Weidner discloses that the chemical decontamination reagent may comprise one or more materials such as sodium permanganate, sodium carbonate, sodium phosphate, activated carbon, zeolites, baking soda, cyclodextrins, PTFE, or any other material of interest (column 2, lines 6-14, column 3, lines 23-26 and 58-64, and column 6, lines 25-42).

Regarding claims 17-18 and 31-32, Weidner discloses that the composite textile article may be part of a garment or head covering and that a breathable atmosphere may be passed through the composite to thereby chemically modify, neutralize and/or decontaminate chemical contaminants from the breathable atmosphere. (column 1, lines 1-16 and 43-55, column 2, lines 38-47, and column 3, lines 12-27).

Regarding claims 19-20 and 33-34, Weidner discloses that the composite textile article may be part of a flexible garment wherein the shape is configured to contain all or part of a human body wherein a cutout exists through the flexible fabric material, wherein a panel is removably attached around a periphery of the cutout by a hook and burr fastener, and wherein

Art Unit: 1771

the panel comprises the composite textile article (column 1, lines 1-16 and 43-55, and column 5, lines 27-35).

6. Claims 3, 5, 23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,461,724 to Wiedner in view of USPN 5,902,384 to Rohrbach as applied to claims 1-2, 4, 6, 8-22, 24, 26 and 28-34 above, and further in view of USPN 5,597,645 to Pike et al. (hereinafter referred to as Pike).

Wiedner does not specifically mention impregnating the central textile fabric or at least one of the sheets of outer textile fabrics with at least one chemical decontamination reagent, but Pike discloses that it is known in the gas/liquid textile fabric filter art to add chemical absorbent particles within a fiber matrix to enhance the performance of the filter media (see entire document including column 9, line 65 through column 10, line 6). It would have been obvious to one having ordinary skill in the art at the time the invention was made to add chemical absorbent particles within the central textile fabric and/or at least one sheet of outer textile fabric to enhance the performance of the filter media.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew T. Piziali whose telephone number is (571) 272-1541. The examiner can normally be reached on Monday-Friday (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1771

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

atp

978 2/13/05
ANDREW T. PIZIALI
PATENT EXAMINER